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SUPERIOR COURT OF NEW JERSEY
: CHANCERY DIVISION-EQUITY PART
ESSEX COUNTYCITY OF NEWARK, a Municipal
Corporation of the State of New Jersey,
BEL AIR TOWERS TENANTS ASSOC.;
SHIRLEY McGEE; GRACE ROGERS;
KENNEDY WILSON; ZENNA WILSON; and
other similarly situated tenants,

v. : CIVIL ACTION

BEL AIR HOLDINGS, LLC; its successors
and/or assigns; FIRST CONNECTICUT
HOLDING GROUP, LLC I; IOJ, LLC;
WEEQUAHIC PARK VI URBAN RENEWAL
ASSOC.; JAMES J. LICATA; STEVEN
BRAUN; FIRST BANK AND TRUST
COMPANY OF ILLINOIS; PSE&G
CORPORATION; ABC CORPORATION;
true name unknown; and JOHN DOE, true
name unknown, jointly and severally.

: DOCKET NO.

: ORDER TO SHOW CAUSE WITH
TEMPORARY RESTRAINTS

TO: Bel Air Holdings, LLC, 2 Dearfield Drive, Greenwich, CT 06830
First Connecticut Holding Group, LLC I, 301 Merritt 7 Corporate Park, Norwalk, CT 06851
IOJ, LLC, c/o Pelino & Lentz, 17 South Haddon Avenue, Haddonfield, NJ 08033-9975
Weequahic Park VI Urban Renewal Assoc., One Parker Plaza, Fort Lee, NJ 07024
James J. Licata, 301 Merritt 7 Corp Park, Norwalk, CT and c/o Judy Cavet, Esq., Bisceglie
& Freidman, 1 Newark Center, Newark, NJ 07102
Steven Braun, 301 Merritt 7 Corp Park, Norwalk, CT and c/o Judy Cavet, Esq., Bisceglie &
Freidman, 1 Newark Center, Newark, NJ 07102
First Bank and Trust Company of Illinois, 300 East Northwest Highway, Palatine, IL 60067
PSE& G Corporation, c/o Edward J. Biggins, Jr., 80 Park Plaza, Newark, New Jersey 07102

Upon the annexed Verified Complaint of the Plaintiffs to have a receiver appointed to collect rents and to manage and ensure requisite maintenance and repair of the buildings' facilities; and to enjoin PSE&G Corporation (hereinafter, "PSE&G") from shutting off gas and electric utilities at a 24 story, 264 unit residential dwelling located at 549-555 Elizabeth Avenue (a.k.a. 2-12 Renner Avenue), Newark, Essex County, New Jersey (Block 3640, Lots 1 & 5).

On this day of , 2001

ORDERED, that Defendants, Bel Air Holdings, LLC; First Connecticut Holding Group, LLC I; IOJ, LLC; Weequahic Park VI Urban Renewal Assoc.; James J. Licata; Steven Braun; First Bank and Trust Company of Illinois; and PSE&G Corporation appear and show cause before the Hon.

 on the day of , 2001 at the Essex County Superior Court, Chancery Division-Equity Part, 212 Washington Street, New Jersey on the Floor, Room why an Order should not be entered enjoining PSE&G from shutting off gas and electric utilities at 549-555 Elizabeth Avenue (a.k.a. 2-12 Renner Avenue), Newark, New Jersey (Block 3640, Lots 1 & 5); and why a receiver should not be appointed to collect rents and to manage and ensure requisite maintenance and repair of the buildings' facilities.

IT IS FURTHER ORDERED, that PSE&G is enjoined from shutting off the gas and/or electric utilities at 549-555 Elizabeth Avenue (a.k.a. 2-12 Renner Avenue), Newark, New Jersey (Block 3640, Lots 1 & 5), and if such utilities, including hot water, have already been shut off to reinstate service immediately; and it is further

ORDERED, that a receiver is appointed to collect rents and to manage and ensure maintenance and repair of the buildings' facilities; and it is further

ORDERED, that the managing agent for the Defendant, Bel Air Holdings, LLC, provide the rent rolls, bills/invoices, and any other information required to the receiver to

, the herein appointed receiver; and it is further

ORDERED that copies of this Order to Show Cause, the Verified Complaint, Certifications, and Exhibits be served on all Defendants and their attorneys, if any, within days of the date of this Order, said service to be made according to the Rules of Court; and it is further

ORDERED that papers in opposition to the relief sought by Plaintiffs, if any, shall be simultaneously filed and served on counsel for the Plaintiffs no later than the day of 2001; it is further

ORDERED that all Defendants shall file and serve their answers to the Verified Complaint within days of the date of service by Plaintiffs of the aforementioned papers, exclusive of the date of service, as set forth above; and it is further

ORDERED that if any Defendant fails to serve and file an Answer to the Verified Complaint within the time set forth herein, judgment by default may be entered against said Defendant for the relief sought in the Verified Complaint; and it is further

ORDERED, that Plaintiffs/Petitioners shall file a Notice of Petition, pursuant to N.J.S.A. 2A:42-89, with the Court within days of the date of this Order, said service to be made according to the Rules of Court.

J.S.C.

RICHARDSON, POWELL & CARTER, LLC569 Dr. Martin Luther King, Jr. Boulevard
Newark, New Jersey 07102Attorneys for the City of Newark
(973) 623-5733SUPERIOR COURT OF NEW JERSEY
: CHANCERY DIVISION-EQUITY PART
ESSEX COUNTYCITY OF NEWARK, a Municipal
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COMPANY OF ILLINOIS; PSE&G
CORPORATION; ABC CORPORATION;
true name unknown; and JOHN DOE, true
name unknown, jointly and severally,

: DOCKET NO.

: VERIFIED COMPLAINT and
PETITION FOR RECEIVERSHIP

Defendants.

The Plaintiffs/Petitioners, City of Newark, a Municipal Corporation of the State of New Jersey, under its general police powers to protect the health, safety and welfare of its citizens; Bel Air

Towers Tenants' Assoc.; and tenants Shirley McGee, Grace Rogers, Kennedy Wilson and Zenna Wilson make this application to the court.

In support of this application, counsel shall rely upon the **Certifications** of Grace Rogers, Josette Gresham, Shirley McGee, Kennedy Wilson, Zenna Wilson, Peter J. Dillon and Peggie Lacy; and **Exhibits** entitled, "Bel Air Towers Rents Collected" dated July 2, 2001 (Exhibit A); Elevator Inspections (Exhibits B, B-1, B-2); City of Newark Division of Environmental Health, Notices to Comply (Exhibit C, C-1, C-2); City of Newark Division of Building and Code Enforcement Inspection Reports (**Exhibit D...**); June 18, 2001 memo regarding City of Newark v. First Connecticut, et al. Docket No. II-200-006912 from the Newark Court Liaison to the Assistant Municipal Prosecutor by which Judge Paul R. Daniele, JMC requested an investigation (Exhibit E), being filed herewith.

FIRST COUNT

1. Plaintiff/Petitioner, City of Newark, is a Municipal Corporation of the State of New Jersey, which is authorized pursuant to N.J.S.A. 40:48-2.12a to enact and enforce ordinances under its general police powers to regulate buildings and structures and their uses and occupation to prevent and abate conditions harmful to the health, safety, welfare and morals of the occupants and the general public.
2. The Revised Ordinances of Newark, Section 15:1-1 et seq., is the housing code for the City of Newark (hereinafter, "Newark" or "City"), which purpose *inter alia* "...determines the respective responsibilities of owners, operators and occupants of dwellings..., provides for the enforcement of provisions pertaining to such standards and responsibilities, and provides penalties for the violation of such housing code."
3. The Plaintiff/Petitioner, Bel Air Towers Tenants' Assoc. is an organization of the tenants

residing at 549-555 Elizabeth Avenue (a.k.a. 2-12 Renner Avenue), Newark, New Jersey (Block 3640, Lots 1 & 5) (hereinafter, "subject premises").

4. Plaintiffs/Petitioners, Shirley McGee, Grace Rogers, Kennedy Wilson and Zenna Wilson are each tenants residing or operating a business at the subject premises.
5. The Defendant, Bel Air Holdings, LLC, is the record owner of the premises located at 549-555 Elizabeth Avenue (a.k.a. 2-12 Renner Avenue), Newark, New Jersey (Block 3640, Lots 1 & 5).
6. Defendants, First Connecticut Holding Group, LLC I; I.O.J., LLC; Weequahic Park VI Urban Renewal Associates; and James J. Licata, are immediate predecessors in title (which have been individuals and/or entities wholly or substantially owned by the same principals).
7. The Defendant, Steven Braun, is or has been the managing agent for the Defendants, Bel Air Holding, LLC; First Connecticut Holding Group, LLC I; I.O.J., LLC; Weequahic Park VI Urban Renewal Associates; and James J. Licata when each respectively owned the subject premises.
8. The Defendant, First Bank and Trust Company of Illinois, is the holder of a five million dollar (\$5,000,000) mortgage loan dated August 18, 1999 secured by the subject premises, with Defendant, Bel Air Holdings, LLC as the mortgagor.
9. The Defendant, PSE&G Corporation, is a public utility company providing gas and electric services to residents and businesses in the State of New Jersey, including the tenants residing or operating a business at the subject premises.
10. 549-555 Elizabeth Avenue (a.k.a. 2-12 Renner Avenue), Newark, New Jersey is a 24 story, 264 unit residential dwelling. According to a rent roll dated July 2, 2001 the building has approximately 72 residential tenants and one (1) non-residential tenant (a pre-school day care

center). (Exhibit A). However, there is evidence of innumerable squatters or so-called illegal residential tenants.

11. A day care center leases space at the subject premises. The number of children served is approximately 90, ages 0 - 5 years (Kennedy Wilson Certification at ¶ 4).
12. The Defendants, Bel Air Holdings, LLC; First Connecticut Holding Group, LLC I; IOJ, LLC; Weequahic Park VI Urban Renewal Assoc.; James J. Licata; and Steven Braun have caused, through non-payment of the gas and electric utilities charges, resulting in PSE&G giving notice of its intent to shut-off gas and electricity to the building, an extreme and emergent detriment to the health, safety and welfare of the tenants at the subject premises, in direct violation of R.O. 15:4-34.
13. On or about June 11, 2001 PSE&G posted a notice that utility services would be discontinued on or about June 27, 2001.
14. On or about June 27, 2001, Defendant, PSE&G, caused the shut off of the hot water. The building continues to be without hot water. (See *Josette Gresham's* Certification at ¶8; *Shirley McGee's* Certification at ¶6; and Kennedy Wilson's Certification at ¶6).
15. Several of the tenants have medical problems requiring electrical service, as well as the dependable operation of the elevators. (See *Josette Gresham's* Certification at ¶5, 6 & 7; *Shirley McGee's* Certification at ¶5; *Zenna Wilson's* Certification at ¶4; and *Grace Rogers'* Certification at ¶4).
16. Shut off of the gas and electric services was voluntarily stayed by PSE&G pending a resolution with the Defendant-owners.
17. In addition, to the present disruption of hot water and the pending disruption of gas and electric utilities, Newark's records from 1999 to the present indicate that the Defendant, Bel Air Holdings, LLC; and/or its immediate predecessors in title or its agents have been cited for

various and multiple housing and health code violations, including but not limited to inoperable elevators, unsanitary conditions, rodent and insect infestation, lack of heat, lack of armed security, and inadequate garbage and debris removal. (Exhibits B, B-1, B-2; C, C-1, C-2; D, D-1, and D-2) and *Peggie Lacy's* Certification at ¶4 and *Peter J. Dillon's* Certification at ¶3).

18. Despite numerous administrative and judicial directives to abate the cited violations, the Defendants, Bel Air Holdings, LLC; First Connecticut Holding Group, LLC I; IOJ, LLC; Weequahic Park VI Urban Renewal Assoc.; James J. Licata; and Steven Braun have not abated the nuisances.
19. Since July 11, 2001, the Plaintiff, City of Newark, has been removing the garbage and debris at the subject premises, at an expense to the municipality. Pursuant to R.O. 15:4-6, property owners are required to contract to provide this service.
20. On June 18, 2001 a memo regarding City of Newark v. First Connecticut, et al. Docket No. H-200-006912 from the Newark Court Liaison to the Assistant Municipal Prosecutor stated Judge Paul R. Daniele, JMC request that "an investigation be conducted concerning 555 Elizabeth Ave. Specifically Judge Daniele requested information concerning whether the health, safety and welfare of the tenants ii [sic] being jeopardized...." (Exhibit E).
21. Since August 13, 2001, the Plaintiff has provided around the clock municipal police presence in and around the subject premises, at an expense to municipality. Pursuant to R.O. 15:13-1, property owners of buildings with over 100 housing units are required to provide armed security.

WHEREFORE, Plaintiffs/Petitioners demand the Court appoint a receiver pursuant to N.J.S.A. 40:48-2.12h; and to further

ORDER Defendant, pursuant to N.J.S.A. 40:48-2.12f, to pay Plaintiff's costs to abate the

nuisances and correct defects, of which shall be a lien against the subject premises; and to further

ORDER Defendants to pay Plaintiff's reasonable attorneys' fees and/or administrative fee and/or costs of this suit; and to further

ORDER such other and further relief as the Court shall deem appropriate.

SECOND COUNT

22. Paragraphs 1 through 21 of the First Count are incorporated by reference as if stated again herein.
23. Pursuant to *N.J.A.C. 14:3-7.12* PSE&G is required to give fifteen day written notice of its intent to discontinue service to the tenants.
24. On or about June 11, 2001 PSE&G posted a notice that utility services would be discontinued on or about June 27, 2001.
25. On or about June 27, 2001 PSE&G shut off the hot water at the subject premises. However shut off of the gas and electric services were voluntarily stayed pending finalization of a payment agreement between the Defendant, Bel Air Holdings, LLC and PSE&G.
26. On or about August 10, 2001 the Defendant, Bel Air Holdings, LLC breached the payment agreement with PSE&G.
27. On or about August 13, 2001 notice was posted at the subject premises stating that the gas and electric services would be discontinued on Thursday, August 15, 2001.
28. PSE&G put the shut off of the gas and electric services in abeyance.
29. Pursuant to *N.J.S.A. 2A:18-61.60* PSE&G has an obligation to "permit a tenants' organization representing each tenant of the rental premises to accept billing for the utility including the periodic billing for current charges, and a statement of any arrearage which is unpaid by the landlord for service previously supplied..., and shall continue providing the service to the premises provided that payment is received."

30. The tenants have formed a tenants' organization in response to the deplorable conditions at the subject premises. (See *Josette Gresham's* Certification at ¶3; *Shirley McGee's* Certification at ¶3; *Zenna Wilson's* Certification at ¶3; *Grace Rogers' Certification* at ¶3; and *Kennedy Wilson's* Certification at ¶3).
31. Of the approximately 70 known tenants, several have medical conditions requiring electrical support (e.g., C-PAT) (See *Josette Gresham's* Certification at ¶5, 6 & 7; *Shirley McGee's* Certification at ¶5; *Zenna Wilson's* Certification at ¶4; and *Grace Rogers' Certification* at ¶4).
32. In addition, several of the tenants appear to have subsidized rent and/or are on fixed income. Accordingly, several tenants may be eligible for assistance under the "Tenant's Lifeline Assistance Program," pursuant to N.J.S.A. 48:2-29.30, et seq.
33. Interruption of gas and/or electric services for non-payment by the Defendants, Bel Air Holdings, LLC; First Connecticut Holding Group, LLC I; IOJ, LLC; Weequahic Park VI Urban Renewal Asssoc.; James J. Licata; and Steven Braun, would exacerbate the ongoing nuisances and create a public health, and safety crisis for the tenants who have paid their rents and who are entitled to the provision of such services.

WHEREFORE, Plaintiffs/Petitioners demand the Court to enjoin PSE&G from shutting of gas and electric utilities at 549-555 Elizabeth Avenue (a.k.a. 2-12 Renner Avenue), Newark, New Jersey; and if such utilities, including hot water, have already been shut off to reinstate service immediately; and to further

ORDER Defendant, PSE&G, pursuant to N.J.S.A. 2A:18-61.60 to continue and reinstate the services, and to bill the tenants' organization; and to further

ORDER Defendants to pay Plaintiff's reasonable attorneys' fees and/or administrative fee and/or costs of this suit; and to further

ORDER such other and further relief as the Court shall deem appropriate.

THIRD COUNT

34. Paragraphs 1 though 33 of the First Count are incorporated by reference as if stated again herein.
35. Pursuant to *N.J.S.A. 2A:42-85 et seq.*, Plaintiffs/Petitioners- tenants and tenants' organization are parties in interest, who hereby petition this Court to for a judgement directing the deposit of rents into court and their use for the purpose of remedying the substantial code violations. The Plaintiffs/Petitioners further seek to have the Court appoint an administrator pursuant to *N.J.S.A. 2A:42-93(d)*, who shall be authorized to use the rent monies escrowed with the court to remedy the substantial code violations.
36. The foregoing pleadings substantially conform to *N.J.S.A. 2A:42-90*.
37. Plaintiffs/Petitioners bring this matter as a summary action in accordance with *N.J.S.A. 2A:42-92*.

WHEREFORE, Plaintiffs/Petitioners demand the Court to summarily direct the deposit of rents into court, and their use for the purpose of remedying the substantial code violations; and to further

ORDER, an administrator be appointed and authorized to use the rent monies escrowed with the court to remedy the substantial code violations; and to further

ORDER such other and further relief as the Court shall deem appropriate.

Dated

Lisa Hendricks Richardson
Attorney-at-Law